

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SEAN WHITE,

Plaintiff,

-against-

SUPERINTENDENT W. LAPE,

Defendant.

USDC SDNY
DOCUMENT
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DOC #:
DATE FILED: 9/18/09

07 Civ. 11299 (RJH) (KNF)

ORDER

On July 30, 2009, Magistrate Judge Kevin N. Fox issued a Report and Recommendation ("Report") recommending that the Court deny the plaintiff's petition for habeas corpus relief. To date, the Court has not received objections to the Report or any other communication, such as a letter requesting an extension of time in which to file objections, from plaintiff.

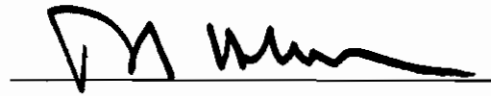
The district court adopts a Magistrate Judge's report and recommendation when no clear error appears on the face of the record. *See Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). However, the court is required to make a *de novo* determination of those portions of a report to which objection is made, 28 U.S.C. § 636(b)(1)(C), by reviewing "the Report, the record, applicable legal authorities, along with Plaintiff's and Defendant's objections and replies." *Badhan v. Lab. Corp. of Am.*, 234 F. Supp. 2d 313, 316 (S.D.N.Y. 2002). The court may then accept, reject, or modify in whole or in part recommendations of the Magistrate Judge. *See Nelson*, 618 F. Supp. at 1189. If a party fails to object to a report within 10 days of being served with the report, that party waives its right to object, and appellate review of the district court's decision adopting the report,

absent unusual circumstances, is precluded. *See United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997).

The Court finds that no clear error appears on the face of the record and hereby adopts the Report. The Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: New York, New York
September 8, 2009

A handwritten signature in black ink, appearing to read 'R. J. Holwell', is written over a horizontal line.

Richard J. Holwell
United States District Judge